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\*ADMITTED IN NY & NJ

July 22, 2019

BY ECF

Honorable Steven M. Gold  
United States Magistrate Judge  
225 Cadman Plaza East, Chambers 1217  
Brooklyn, NY 11201

*Re: United States v. Garrett O'Rourke,  
19-MJ-644 (SMG)*

Dear Judge Gold:

I am counsel to the Defendant, Garrett O'Rourke, in the above-referenced matter.

I write to request that the Court modify my client's bail conditions in two respects, with the consent of the government. The two modifications I seek are: 1) permission for my client to travel to Boston on July 29, 2019 for a business meeting; and 2) permission for my client to close out options positions he has in his TD Ameritrade Account in the following securities, which are listed by their ticker symbols: SPY, BIDU, KHFC, MYL, and X. After closing these positions, my client will leave the funds derived from these transactions in the TD Ameritrade Account, so that they are available to pay restitution or forfeiture in the future, if either of those remedies are imposed. I have discussed these applications with Assistant United States Attorney Hiral Mehta, and he consents to them. The reasons for these applications are as follows.

As the Court is aware, my client was arrested last week and charged with conspiracy to commit securities fraud. When Your Honor set bail on July 18, one of the conditions of my client's release was that he refrain from engaging in any securities transactions. A copy of the Court's Order Setting the Conditions of Mr. O'Rourke's Release is attached as Exhibit A for the Court's convenience.

At the time my client's bail was set, he had open options positions in the securities listed by symbol above, in his TD Ameritrade Account Number 425-886295. If my client is not permitted to close out those positions, significant funds may be lost in his account, and he and the government want to make sure that the maximum amount possible is available to pay restitution and forfeiture in the future, if those remedies are imposed in this case. For that reason, I proposed to AUSA Mehta that my client be

permitted to close out his option positions in these securities, and leave the cash positions that result in his TD Ameritrade Account Number 425-886295. AUSA Mehta has consented to my client closing out these positions for the benefit of everyone, because he recognizes that, if these positions are not closed, there is a risk of a large loss in my client's TD Ameritrade Account.

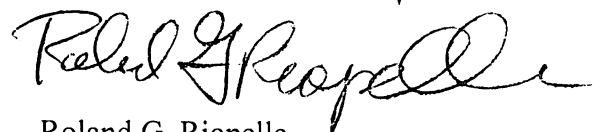
In addition, my client needs to travel to Boston, Massachusetts on Monday, July 29, 2019 for business reasons. I have discussed this trip with AUSA Mehta, and he is fully aware of the details of the trip and its purpose. AUSA Mehta consents to this travel, even though it is beyond the bail limits imposed on Mr. O'Rourke in the Court's July 18, 2019 Order setting the conditions of Mr. O'Rourke's release. See Exhibit A. Therefore, I respectfully request that the Court modify Mr. O'Rourke's bail conditions to permit him to travel to Boston, Massachusetts for the day on July 29, 2019.

### CONCLUSION

For all the forgoing reasons, I respectfully request that the Court enter an order permitting Mr. O'Rourke to close out the options positions described above, and that it permit Mr. O'Rourke to travel to Boston, Massachusetts for one day on July 29, 2019. As noted above, the government consents to these applications.

If the Court is inclined to grant these applications, it may do so by executing this letter at the "So Ordered" signature line below.

Respectfully submitted,



Roland G. Riopelle

Cc: Hiral Mehta, Esq. (By ECF)

The Defendant, Garrett O'Rourke, having made an application to be permitted to close out his options positions in the stocks bearing symbols SPY, BIDU, KHFC, MYL and X in his TD Ameritrade Account, Number 425-886295, and good cause appearing to grant this application, and the government having consented to this application, and

The Defendant having also made an application to travel to Boston, Massachusetts on July 29, 2019, and good cause appearing to grant that application, and the government having consented to that application,

IT IS ORDERED, that the Defendant, Garrett O'Rourke, is hereby permitted to close out his options positions in the stocks bearing symbols SPY, BIDU, KHFC, MYL and X in his TD Ameritrade Account, Number 425-886295, and

SERCARZ & RIOPELLE, LLP

IT IS FURTHER ORDERED, that the Defendant, Garrett O'Rourke, is permitted to travel to Boston, Massachusetts on July 29, 2019.

IT IS SO ORDERED:

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HON. STEVEN M. GOLD  
U. S. M. J.

# **EXHIBIT A**

**United States District Court, Eastern District of New York**

UNITED STATES OF AMERICA

y.

Garrett D'Rourke, Defendant.

**ORDER SETTING CONDITIONS OF RELEASE  
AND APPEARANCE BOND**

**Case Number:**

17-644N

**RELEASE ORDER**

It is hereby ORDERED that the above-named defendant be released subject to the Standard Conditions of Release on the reverse and as follows:

[ ] Upon Personal Recognizance Bond on his/her promise to appear at all scheduled proceedings as required, or

[ ] Upon Bond executed by the defendant in the amount of \$ \_\_\_\_\_, and

secured by [ ] financially responsible sureties listed below and/or [ ] collateral set forth below.

### Additional Conditions of Release

Additional Conditions of Release

The Court finding that release under the Standard Conditions of Release on the reverse will not by themselves reasonably assure the appearance of the defendant and/or the safety of other persons and the community, IT IS FURTHER ORDERED as follows:

[X] The defendant must remain in contact with the court at all times.

- [X] 1. The defendant must remain in and may not leave the following areas without Court permission: [X] New York City; [X] Long Island, NY; [ ] New York State; [ ] New Jersey; [ ] SDNY SDCA SDGB RIVA and travel to and from this Court and the permitted areas.
- [ ] 2. The defendant must avoid all contact with the following persons or entities: Cousin + Sister + Brother
- [ ] 3. The defendant must avoid and not go to any of the following locations: Prisons and jails
- [ ] 4. The defendant must surrender all passports to Pretrial Services by \_\_\_\_\_ and not obtain other passports or international travel documents.
- [X] 5. The defendant is placed under the supervision of the Pretrial Services Agency subject to the Special Conditions on the reverse and:
- [X] a. is subject to random visits by a Pretrial Services officer at defendant's residence and/or place of work;
- [X] b. must report [X] as directed by Pretrial Services or [ ] in person \_\_\_\_\_ times per \_\_\_\_\_ and/or [ ] by telephone \_\_\_\_\_ times per \_\_\_\_\_.
- [ ] c. must undergo [ ] testing, [ ] evaluation and/or [ ] treatment for substance abuse, including alcoholism, as directed by Pretrial Services.
- [ ] d. must undergo evaluation and treatment for mental health problems, as directed by Pretrial Services.
- [ ] e. is subject to the following location restriction program with location monitoring, as directed by Pretrial Services:
- [ ] home incarceration: restricted to home at all times, except for attorney visits, court appearances and necessary medical treatment;
- [ ] home detention: restricted to home at all times, except for attorney visits, court appearances, medical treatment, [ ] religious services,
- [ ] employment, [ ] school or training, [ ] other activities approved by Pretrial Services, [ ] \_\_\_\_\_
- [ ] curfew: restricted to home every day from \_\_\_\_\_ to \_\_\_\_\_, or [ ] as directed by Pretrial Services.
- [ ] Defendant must pay all or part of the cost of any required testing, evaluation, treatment and/or location monitoring with personal funds, based upon ability to pay as determined by the Court and the Pretrial Services Agency, and/or from available insurance.
- [ ] 6. Other Conditions: Defendant from arrest

APPEARANCE BOND

I, the undersigned defendant, and each surety who signs this bond, acknowledge that I have read this Appearance Bond and, and have either read all the other conditions of release or have had those conditions explained. I further acknowledge that I and my personal representatives, jointly and severally, are bound to pay the United States of America the sum of \$ 1,000.00 and that this obligation is secured with the below interest in the following property ("Collateral") which I represent is/are free and clear of liens except as otherwise indicated:

[ ] cash deposited in the Registry of the Court in the sum of \$ \_\_\_\_\_

- [ ] cash deposited in the Registry of the Court in the sum of \$ \_\_\_\_\_  
 [ ] premises located at: \_\_\_\_\_  
 [x] I also agree to execute a confession of judgment, mortgage or lien \_\_\_\_\_ owned by \_\_\_\_\_  
 proper local and state authorities on or before \_\_\_\_\_ in form approved by the U.S. Attorney which shall be duly filed with the \_\_\_\_\_

Each owner of the above Collateral agrees not to sell the property, allow further claims or encumbrances to be made against it, or do anything to reduce its value while this Appearance Bond is in effect.

**Forfeiture of the Bond.** This Appearance Bond may be forfeited if the defendant fails to comply with any of the conditions set forth above and on the reverse. The defendant and any surety who has signed this form also agree that the court may immediately order the amount of the bond surrendered to the United States, including any security for the bond, if the defendant fails to comply with the above agreement. The court may also order a judgment of forfeiture against the defendant and against each surety for the entire amount of the bond, including any interest and costs.

Date

Address: \_\_\_\_\_

\_\_\_\_\_, Surety

Address: \_\_\_\_\_

\_\_\_\_\_, Surety

Address: \_\_\_\_\_

\_\_\_\_\_, Surety

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release and of the penalties and sanctions set forth on the front and reverse sides of this form.

**Release of the Defendant is hereby ordered on**

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Signature of Defendant

1c/ SMG